

REMARKS

Claims 1 and 3 remain pending in the application with Claim 1 being the sole independent claim. Claims 1 and 3 are again rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bank '069 (U.S. Patent Application Publication No. 2003/0059069 A1).

In the response to the previous Office Action, Applicant argued that Bank '069 failed to teach or reasonably suggest the panel-type speaker mounting structure recitations of Claims 1 and 3.

The Examiner responded by stating, on page 4 of the Office Action, that Bank does teach a second portion (e.g., bimorph beam 88 and piezoelectric beam 51) extended from the first portion (e.g., bimorph beam 90 and piezoelectric beam 43), for mounting (Abstract, paragraph 0005, and paragraph 0062), a panel-type speaker (e.g., transducer, actuator, exciter; FIG. 2, transducer 86) to the lower surface (FIG. 2, bimorph beam 88; FIG. 5, piezoelectric beam 51) of the second portion of the polarizing plate (e.g., piezoelectric material/plate; FIG. 2, FIG. 5, paragraphs 0054-0055, 0059, and 0061).

Bank '069 was filed on July 24, 2002 and is a Continuation-In-Part (CIP) of Bank '669 (U.S. Patent Application Publication No. 2001/0033669 A1). Bank '669 was filed on January 24, 2001. The present application was filed on June 13, 2001 and antedates Bank '069.

Bank '669 merely discloses a resonant element transducer and nowhere discusses the use of the Bank '669 resonant element transducer in any type of arrangement with an LCD window or an LCD module. The portions of Bank '069 that are relied upon by the Examiner are not part of Bank '669 and Bank '069 was filed in the USPTO after the filing date of the present application, e.g. June 13, 2001. In other words, the effective filing date of Bank '069 is July 24, 2002 with respect to the disclosure of Bank '069 that is relied upon by the Examiner with respect to the present application.

As the Examiner well knows, subject matter which is disclosed in a child CIP application, but not included in the parent application cannot be relied on in a 35 U.S.C. §102(e) rejection. Therefore, Bank '069 fails to qualify as prior art against the present application because the portions of Bank '069 that are relied upon by the Examiner are not part of Bank '669. The present application antedates Bank '069.

Accordingly, Claim 1 is allowable over Bank '069.

While not conceding the patentability of the dependent claims, *per se*, Claim 3 is also allowable for at least the above reasons.

Accordingly, all of the claims pending in the Application, namely, Claims 1 and 3, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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